In the High Court of Punjab and Haryana at Chandigarh

CWP No. 10885 of 2006

Date of decision: 22.8.2006

Balwant Singh

…Petitioner

Versus

State of Haryana and others

…Respondents

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR

HON'BLE MR. JUSTICE M.M.S. BEDI

PRESENT: Mr. J.S. Thind, Advocate,

for the petitioner.

JUDGMENT

M.M. KUMAR, J.

The claim made by the petitioner is that direction be issued to the respondents for re-fixation of his pay with effect from 1.2.1990 to 31.10.1997 after quashing orders dated 30.5.2000 (P-2), 28.1.2004 (P-6) and 30.3.2005 (P-9). It is appropriate to mention that the petitioner was appointed as Electric Instructor at Panipat in the pay scale of Rs. 1400-2600. On 1.1.1991, he was granted additional

increment on 10th point of his pay scale. It is claimed that he had completed 24 years and 5 months service on 31.1.1990 and deserves to be given two increments as he has reached 20th point of his pay scale. On 7.8.1992, the scheme granting one increment on 10th point and 2nd increment on 20th point was changed. The petitioner retired on attaining the age of superannuation and has claimed that two additional increments which were liable to be paid, were never paid. He made a representation for re-fixation of his pay from 1.2.1990 to 31.10.1997 and for the aforementioned purpose filed C.W.P. No. 14517 of 2003, which was disposed of on 12.9.2003 by a Division Bench of this Court directing the respondents to pass an appropriate speaking order on the representation made by the petitioner. As a consequence of the direction issued, respondent No. 2 has now passed an order, which reads as under:-

> "1. Finance Department Haryana vide its no. 9/9/91-3PR(FD) dated 14.5.91 have introduced to grant one additional increment of 10th and another at 20th year point in the time scale as applicable to all Group 'C' and 'D' employees in addition to regular increments. Sh. Balwant Singh, Electrician Instructor (Retired) was drawing pay Rs. 2540/- on 1.2.1990 i.e. 23rd point. Only one additional increment is granted as provided in Note 1(iii) of the F.D. Letter dated 14.5.1991 where clarified that all such employees who have crossed the 21st point of their scale or above before 1.1.91 shall get

only one additional increment on 1.1.91 referred above to raise the pay from 2540 to 2600/- on 1.1.1991 which is the maximum of the time scale. It is very much clear in para IV ibid that the benefit of additional increment would be available only in the scale and not at a stage beyond the maximum of the scale.

2. As the pay of Sh. Balwant Singh, Electrician Instructor (Retired) was drawing the maximum pay of pay scale of Rs. 2600/- on 1.1.91 next increment has been granted on 1.1.92 to raise pay from Rs. 2600/- to 2660/- as provided and clarified by the Finance Department Haryana vide its letter no. 9/9/91-3PR(FD) dated 9.4.92 referred above.

"(6) Points raised:-

What would be the date of next increment of a Govt. employee, whose pay, on or after 1.1.91, reaches the maximum of the time scale as a regular increment or grant of additional increment.

Illustration:-

As Assistant in the pay scale of Rs. 1400-2600 was drawing Rs. 2540 w.e.f. 1.4.1990. He was given the benefit of one additional increment raising his pay to Rs.

> 2600/- as on 1.1.1991. He will be given next increment under open ended scale policy on 1.1.1992 i.e. the day on which he completes one year's period."
>
> Hence, it is clear from the above that he is not entitled for two additional increments on 1.1.91 and date of normal annual increment on 1.1.92 is correct and pay fixed vide endst. No. TE/109/19-IV/20974 dated 23.10.2002 is correct."

When the matter came up for consideration on 20.7.2006, we have granted time to the learned counsel for the petitioner to study the instructions dated 9.4.1992, which have been referred in the impugned order.

Having heard the learned counsel and going through the instructions issued by the department on 9.4.1992 and 14.5.1991, we are of the view that no illegality has been committed in fixation of his pay by the respondent department. It is evident that on 14.5.1991, a scheme was introduced by the Finance Department to grant one additional increment at 10th and 20th year point in the time scale as applicable from 1.1.1986 to all Group 'C' and 'D' employees in addition to regular increments. The aforementioned period of 10 and 20 year was based on open ended pay scale. The object of the policy appears to be to grant incentives to those employees who have not been able to reap the benefit of promotion and to break stagnation. However, it was laced with one limitation that those employees who

have reached the maximum of their pay scale and have also crossed 21 point or above of their scale before 1.1.1991, were to be granted only one additional increment on 1.1.1991. The aforementioned copy of the scheme is taken on record as Mark-'A'. It is undisputed that in the pay scale of 1400-2600, the petitioner was drawing the maximum pay of the pay scale i.e. Rs. 2,600/- on 1.1.1991 and next increment has been granted on 1.1.1992 by raising the pay from Rs. 2,600/- to Rs. 2,660/-, as clarified by the Finance Department vide its letter dated 9.4.1992. Therefore, we are unable to agree with the learned counsel for the petitioner that the benefit of two increments should in any case be granted to the petitioner. We also observe that there is no challenge raised either to the policy of 14.5.1991 or the subsequent letter dated 9.4.1992.

For the reasons aforementioned, this petition fails and the same is dismissed.

(M.M. KUMAR)
JUDGE

(M.M.S. BEDI)
JUDGE

August 22, 2006

Pkapoor